

EN BANC

[A.M. No. P-96-1183, June 29, 1999]

**LUCINA L. REGALADO, COMPLAINANT, VS. LILIA S. BUENA,
CLERK OF COURT, MTCC, NAGA CITY, RESPONDENT.**

RESOLUTION

QUISUMBING, J.:

On October 14, 1993, a verified letter-complaint was filed by Lucina L. Regalado with the Office of the Executive Judge David C. Naval, Regional Trial Court, Naga City against Lilia S. Buena, Clerk of Court of the Municipal Trial Courts in Cities, Naga City, charging her of "Dishonesty and Corrupt Practices."

Complainant Regalado alleged that for the purpose of redeeming her residential house and lot which was foreclosed by the Philippine National Bank, Naga City, and a piece of land mortgaged to the Rural Bank of Cabusao, Camarines Sur, her two daughters, namely, Ma. Luisa R. Grosse and Ma. Asuncion R. Trabitzsch, who are married to German nationals and residents of Germany, entrusted to respondent Buena the total amount of P450,000.00. To acknowledge receipt thereof, respondent issued six Supreme Court Official Receipts^[1] and signed a private document entitled "Trust Deposits".^[2] However, respondent allegedly failed to pay the banks and refused to account for the said amount despite repeated demands by complainant.

Judge Naval required respondent to answer the complaint. In her verified answer dated November 15, 1993, respondent admitted that she received from complainant's daughters the amount of P523,000.00 and accordingly issued receipts therefor. However, respondent asserted that there could be no dishonesty as she fully complied with her obligations for which the said amount was entrusted to her. She paid the judgment amount in Civil Case No. RTC 85-606, P48,000.00; the Rural Bank of Cabusao, P150,000.00; and the Philippine National Bank, P305,100.58, instead of the original amount of P350,000.00. She also caused the transfer of the title of the redeemed property to the two daughters of complainant and paid the taxes and other expenses therefor.

During the investigation, Judge Naval received a letter^[3] from Mrs. Grosse requesting him to withdraw the case against respondent as she had complied with her obligations. In another letter,^[4] Mrs. Grosse attached the handwritten letter of her mother, herein complainant, to her which stated that upon redemption of the property, the title will be transferred in the name of the Grosses.

On July 28, 1994, an amended complaint was filed charging respondent with (1) failure to pay the creditor banks with the amount entrusted to her by complainant's daughters, and (2) having caused the transfer of complainant's properties to her two daughters without her prior knowledge and authority.

When required to answer the amended complaint, respondent Buena merely adopted her answer in the original complaint.

The report of Naga City Auditor Francisco Velasco who examined the cash and accounts of respondent was submitted during the investigation. It disclosed that during the period of September 24, 1990 to September 5, 1991, 13 official government receipts were issued by respondent to Mrs. Grosse and Mrs. Trabitzsch for private transactions. She concealed the actual amounts she received by understating them and changing the particulars of payment.

Francisco dela Viña, a COA Auditor assigned to Naga City, testified that the handwritten entries in the duplicate of the official receipts issued by the respondent were different from the original receipts with respect to the names of the payor, nature of payment and the amount paid. The original official receipts show that respondent received the total amount of P450,000.00, while the duplicate copies of the same showed that respondent received only P68.50.^[5]

After the investigation, Judge Naval in his Report and Recommendation dated February 2, 1996, found:

(1) That respondent could not be held administratively liable for having entered into a private transaction with the daughters of herein complainant because such is not related to her duties and functions as Clerk of Court and Ex-Officio Sheriff, nor could she be made to pay for the cost of printing the official receipts she improperly issued because she deposited with the government the amount of P68.50;

(2) That herein complainant was not a party to the private transaction and the money entrusted to herein respondent came from her two daughters. Thus, complainant could not claim that she was prejudiced by the delay in respondent's compliance with her obligations. Contrary to her claim, herein respondent was able to comply with her obligations to the satisfaction of complainant's daughters;

(3) That it was established on record that there was an agreement between herein complainant and her children that whoever redeems the foreclosed and mortgaged properties would become the owner thereof. Granting that the Deed of Sale and the transfer of title of the properties was made without the knowledge and consent of herein complainant and her husband, the proper forum where this issue can be ventilated is the regular courts and not an administrative proceeding;

(4) That respondent is administratively liable for taking advantage of her position as Clerk of Court and Ex-Officio Sheriff by misrepresenting herself to Grosse and Trabitzsch that her act of working for the redemption of their property was part of her official functions, and for her unauthorized and illegal use of the Supreme Court Official Receipts for the money entrusted to her;

(5) That although Grosse and Trabitzsch, the real victims of fraud and misrepresentation did not complain, respondent is still liable for deliberately issuing the originals of the official receipts without her